

Chile

RISK & COMPLIANCE REPORT

DATE: March 2018

Executive Summary - Chile

Sanctions:	None
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	Not on EU White list equivalent jurisdictions
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations US Dept of State Money Laundering assessment Failed States Index (Political Issues)(Average Score)
<p>Major Investment Areas:</p> <p>Agriculture - products: grapes, apples, pears, onions, wheat, corn, oats, peaches, garlic, asparagus, beans; beef, poultry, wool; fish; timber</p> <p>Industries: copper, lithium, other minerals, foodstuffs, fish processing, iron and steel, wood and wood products, transport equipment, cement, textiles</p> <p>Exports - commodities: copper, fruit, fish products, paper and pulp, chemicals, wine</p> <p>Exports - partners: China 23.9%, US 12.2%, Japan 10.6%, South Korea 5.8%, Brazil 5.5% (2012)</p> <p>Imports - commodities: petroleum and petroleum products, chemicals, electrical and telecommunications equipment, industrial machinery, vehicles, natural gas</p> <p>Imports - partners: US 21.9%, China 18.2%, Argentina 6.7%, Brazil 6.5% (2012)</p>	

Investment Restrictions:

Chile's business climate is generally straightforward and transparent. Foreign investors receive treatment similar to Chilean nationals in nearly all sectors. There are generally no special exemptions or incentives for FDI as a matter of policy.

There are no restrictions on foreign investment in telecommunications, but investors must acquire a license, and the number of licenses available is limited in some new sectors of the industry. Certain types of investment projects require additional authorization beyond that of the FIC. For example, projects in the copper mining sector require the Chilean Copper Commission's authorization; investments in the fishing sector require the approval of the Under-Secretariat of Fishing

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Section 1 - Background

Prior to the arrival of the Spanish in the 16th century, the Inca ruled northern Chile while the Mapuche inhabited central and southern Chile. Although Chile declared its independence in 1810, decisive victory over the Spanish was not achieved until 1818. In the War of the Pacific (1879-83), Chile defeated Peru and Bolivia and won its present northern regions. It was not until the 1880s that the Mapuche were brought under central government control. After a series of elected governments, the three-year-old Marxist government of Salvador ALLENDE was overthrown in 1973 by a military coup led by Augusto PINOCHET, who ruled until a freely elected president was inaugurated in 1990. Sound economic policies, maintained consistently since the 1980s, have contributed to steady growth, reduced poverty rates by over half, and have helped secure the country's commitment to democratic and representative government. Chile has increasingly assumed regional and international leadership roles befitting its status as a stable, democratic nation.



Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Chile is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Chile was undertaken by the Financial Action Task Force (FATF) in 2006. According to that Evaluation, Chile was deemed Compliant for 8 and Largely Compliant for 15 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 2 of the 6 Core Recommendations.

US Department of State Money Laundering assessment (INCSR)

Chile was deemed a Jurisdiction of Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Chile has a large and well developed banking and financial sector with an established AML/CFT regime. Chile's economic stability makes it an attractive location for the financial operations of criminal groups. Recent legislation has addressed many of the systematic vulnerabilities of Chile's past AML/CFT regime, to include deficiencies in detection and prevention of money laundering, easing of bank secrecy laws, and increase in oversight of public institutions. Some issues remain such as a lack of sufficient resources for investigators and prosecutors.

Given Chile's extensive trading partnerships and long borders, its largely unregulated free trade zones (FTZs) are additional vulnerabilities. Chile has three FTZs, the Free Zone of Iquique (ZOFRI), the free port of Arica in northern Chile, and the Free Zone of Punta Arenas in the south. ZOFRI is a major entry point for products bound for Bolivia and has industrial, retail, and commercial areas. Punta Arenas also has a free port. Imports entering and remaining in Chile's FTZs pay no duty or value added tax and entities established in the zones pay no corporate tax.

While the size of the market for illicit or smuggled goods is unknown, there have been seizures of counterfeit goods by Chilean Customs officials. There have been incidences of public corruption.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

CRIMINALIZATION OF MONEY LAUNDERING:

"All serious crimes" approach or "list" approach to predicate crimes: List approach

Are legal persons covered: criminally: YES civilly: YES

KNOW-YOUR-CUSTOMER (KYC) RULES:

Enhanced due diligence procedures for PEPs: Foreign: NO Domestic: NO

KYC covered entities: Banks and credit unions; pension funds; mutual fund administrators; securities brokers and dealers; leasing and factoring companies; credit card issuers and operators; insurance brokers and companies

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 2,356: January - September 30, 2015 Number of CTRs received and time frame: 244,678: January 1 - September 30, 2015 STR covered entities: Banks and representative offices of foreign banks; mutual and investment fund managers; pension fund administration companies; custom agents; securities depository, securities and commodities brokers and dealers; futures and options markets operators, and commodity and stock exchanges; nonprofit savings and loans companies and savings and loan cooperatives; money transfer and transportation companies and currency exchange offices; auction houses; casinos, floating casino games, gaming houses, and horse tracks; the Foreign Investment Committee; insurance companies; real estate registrars, brokers, and management companies; credit card issuing and operating companies; financial leasing, financial factoring, and securitization companies; notaries; entities authorized to receive foreign currencies; FTZ users and administration companies; sports clubs (stock companies) and professional sport organizations; general fund managers; and public institutions

MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:

Prosecutions: 100: January 1 - October 30, 2015

Convictions: 79: January 1 - October 30, 2015

RECORDS EXCHANGE MECHANISM:

With U.S.: MLAT: NO Other mechanism: YES

With other governments/jurisdictions: YES

Chile is a member of the Financial Action Task Force of Latin America (GAFILAT), a FATF- style regional body

ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:

The Government of Chile has strengthened its AML/CFT efforts over the past year, making progress towards meeting international standards and addressing many of the vulnerabilities in its previous regime. Particularly noteworthy was the 2015 passage of Public Law 4426-07, designed to expand the scope and depth of detection, investigation, and prosecution of money laundering crimes. The Chilean system previously had many organizations in place to address money laundering and terrorist financing; however, there were issues of communication as well as resource scarcity. The new law gives greater power and resources to relevant agencies to address these issues.

Public Law 4426-07 addresses one of the most significant obstacles to money laundering investigations – bank secrecy. Previously, prosecutors were severely limited in their ability to gather evidence and banking information and, as a result, were unable to move forward on many investigations. With the passage of Public Law 4426-07, prosecutors, working with a judge, now have the ability to gather information from banks regarding an individual's banking account and relevant transactions, a substantial improvement in both the investigation and prosecution of money laundering crimes. Also noteworthy is the law's expansion of what is included as a 'crime' with relation to money laundering. A previous limitation to prosecutors was the narrow scope of what was considered a money laundering crime, which prevented investigation of crimes that were likely connected to money laundering. The new law now includes such offenses as tax crimes, smuggling, and crimes against intellectual property as 'predicate offenses' and therefore open to investigation. Together, these changes have provided the Chilean government an expanded scope of power and influence in both investigating and ultimately prosecuting money laundering crimes.

In its first year of enforcement of Public Law 4426-07, Chilean agencies have already seen a marked increase in reporting of suspicious activity and a general mobilization within all government organizations to combat money laundering and terrorist financing. This is a direct result of the expanded reporting requirements included in the new law. Previously, only private organizations had any reporting requirements, meaning some 600 public institutions had no internal AML/CFT mechanisms, leaving their transactions largely unchecked. With the new law, it is now a requirement for each public institution to have internal mechanisms to detect and report suspicious activity, leading not only to greater oversight over these organizations but greater communication between them. In addition, Chile's enforcement agencies can now coordinate directly with those public institutions to ensure potential illicit activity is reviewed and investigated accordingly.

One of the principal limiting factors of the new law is its lack of retroactivity. The law only pertains to activity taking place after its passage in February 2015, meaning previous activity is outside the scope of enforcement. Moreover, while public institutions are now required to report suspicious activity, enforcement organizations must still rely on court orders to obtain further information, such as copies of documents or information related to bank operations once suspicious activity has been reported.

While the new law focuses on expanding the scope and definition of what constitutes money laundering (to now also include contraband and falsification of bank documents), Chilean authorities nevertheless remain focused on drug trafficking. This is primarily due to resource allocation. Regardless, the expanded scope of what is considered a crime will enable Chilean authorities to dedicate more time and resources to the investigation and

prosecution of these activities. Previously, these activities could not be used as predicate offenses in money laundering investigations as they were not technically crimes.

In 2015, the Government of Chile helped fund the country's first bitcoin/peso exchange. The Chilean Financial Intelligence Unit (FIU) will provide AML/CFT oversight. Another key advancement is the expanded scope of STR-covered entities, to include free trade zone users and administrators and credit card operating companies.

Following passage of Public Law 4426-07, Chile should now focus on increasing resources for its enforcement agencies as well as providing training to public institutions embarking on new AML/CFT regimes. While resource scarcity will remain an issue, the greater issue facing public institutions is a lack of knowledge and understanding of an AML/CFT regime. For many, there were no mechanisms in place to report suspicious activity and although they are now required to do so, many lack the understanding of how to best implement this. To that end, Chile should continue focusing on providing the requisite training needed to sufficiently comply with the new law. Chile also should adopt enhanced due diligence procedures for both foreign and domestic politically exposed persons (PEPs).

Current Weaknesses in Government Legislation (2013 INCRS Comparative Tables):

According to the US State Department, Chile conforms with regard to all government legislation required to combat money laundering

EU White list of Equivalent Jurisdictions

Chile is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

Failed States Index

[To view Failed States Index Ctrl + Click here](#)

Offshore Financial Centre

Chile is not considered an Offshore Financial Centre

US State Dept Narcotics Report 2015:

Chile is a transit country for Andean cocaine destined primarily for Europe. Long, porous borders with Argentina, Peru and Bolivia present special challenges to its efforts to combat drug trafficking. Restrictions on inspecting Bolivian-originated shipments (pursuant to a Bolivia-Chile treaty) impede efforts to interdict shipments of illegal narcotics. Chile is not a major producer of organic or synthetic drugs.

Drug control is a priority for Chile. Chile has invested heavily in counternarcotic efforts in the north of the country through its Northern Border Plan, a four-year initiative begun in 2011 and overseen by the Ministry of Interior. The \$70 million program focuses on combatting drug and contraband smuggling along roughly 590 miles of border with Peru and Bolivia. Also in 2014, the Government of Chile began developing a national strategy to combat drug trafficking, which will include enhanced interagency cooperation (currently a significant impediment to information sharing), institutional development and international cooperation.

Operations Capricorn and Masquerade were among Chile's major counter narcotics accomplishments of 2014. Operation Capricorn, the result of a four month wiretap investigation, culminated with the arrest of eight Chilean nationals and the seizure of over 1.79 metric tons (MT) of cocaine base, 1.21 MT of marijuana, and three MT of cocaine hydrochloride (HCL cocaine). The seven-month long operation Masquerade resulted in the seizure of 1.87 MT of marijuana and 539 kilograms of cocaine base.

Despite relatively static figures in internal consumption of HCL cocaine and cocaine base, there have been significant escalations in the amounts of drugs seized and number of drug processing labs found. For example, 17 drug processing labs were raided in the Santiago Metropolitan area in 2014 compared with six in 2013. In addition to enhanced drug interdiction capacity, senior officials in the Ministry of Interior have suggested that the rise in drug seizures and processing laboratories indicates an increase in the use of Chile as a conduit country for drug exportation.

The National Service for Drug and Alcohol Prevention and Rehabilitation continued effective demand reduction and drug treatment programs in 2014.

The United States partners with Chile to strengthen the capacity of Chilean institutions to confront drug trafficking and actively collaborates in the areas of container inspection, advanced drug interdiction techniques and fighting the production and distribution of synthetic drugs. The Government of Chile also coordinates assistance, dialogue and information sharing on counternarcotics efforts with other governments in South and Central America, as well as Europe.

The United States and Chile are parties to an extradition treaty that entered into force in 1902. A new treaty is awaiting ratification in both countries. The United States and Chile do not have a mutual legal assistance treaty, but cooperate under the Inter-American Convention on Mutual Assistance in Criminal Matters.

US State Dept Trafficking in Persons Report 2016 (introduction):

Chile is classified a Tier 1 country.

Chile is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Chilean women and children are exploited in sex trafficking within the country, as are women and girls from other Latin American countries and Asia. Men, women, and children—primarily from other Latin American countries, as well as Asia—are exploited in forced labor in mining; agriculture; construction; street vending; the hospitality, restaurant, and garment sectors; and in domestic service. Authorities report Chinese immigrants may be vulnerable to sex trafficking and forced labor and Korean women are subjected to sex trafficking. Chilean authorities identified 260 children involved in illicit activities in 2015, including drug trafficking and theft; some of these children may have been trafficking victims. Chilean men were reported to be transported to Peru for the purposes of labor exploitation and Chilean women to Argentina for commercial sexual exploitation. Some Chilean women may be exploited in sex trafficking in other countries. NGOs report brothels in small towns are often frequented by police officers, dissuading potential trafficking victims from reporting exploitation. The government noted that traffickers, aware of law enforcement crackdowns on human trafficking, are changing their operations, including avoiding direct involvement in illegal activities, setting up work contracts for victims through third parties, and establishing shell companies to justify illicit gains.

The Government of Chile fully meets the minimum standards for the elimination of trafficking. Authorities convicted sex traffickers under child prostitution statutes, increased victim protection services to child sex trafficking victims, and created a separate fund to assist immigrants in vulnerable situations, including victims of trafficking. In April 2015, the government enacted a law to strengthen protections for domestic workers. Authorities increased training for front-line responders, including health workers and phone operators. Authorities did not prosecute internal child sex trafficking cases as human trafficking, which hindered efforts to penalize traffickers appropriately and accurately assess anti-trafficking efforts.

US State Dept Terrorism Report 2011

Overview: The Government of Chile continued its efforts to counter domestic terrorism, a phenomenon mainly composed of local anarchist groups carrying out small-scale bomb attacks. U.S. and Chilean officials collaborated on several counterterrorism projects throughout the year, including investigating whether an international smuggling network had any nexus to terrorism and carrying out several training programs that strengthened Chile's ability to prevent and counter terrorism.

2011 Terrorist Incidents: There were approximately 23 improvised explosive devices (IEDs) that were detonated, deactivated, or found, the vast majority of which were located in Santiago. Officials believed that these IEDs were tied to anarchist activity. The typical modus operandi was to place IEDs composed of gunpowder inside of a fire extinguisher in front of businesses; banks were most frequently targeted. The majority of the IEDs were crudely built, characterized as "noise bombs," were used late at night, and did not appear to be designed to kill or injure people. However, they did have the potential to injure passersby in

the immediate vicinity. The only casualty in 2011 occurred when one of the anarchists was severely burned and lost his hands when the device he planted detonated prematurely.

On March 21, a small explosive device detonated outside the U.S. Binational Centre in Vina del Mar. The explosion caused minor damage, but no one was injured. The bombing occurred hours prior to President Barack Obama's arrival. No group claimed responsibility for the attack.

Two IEDs detonated at a memorial to former Chilean political figure Jaime Guzman, directly across the street from the U.S. Embassy. Neither caused injuries nor was aimed at U.S. citizens. The first IED detonated on August 14; the second was used on August 16.

Anarchists targeted high-profile areas, such as the National Cathedral, Grupo Copesa headquarters (a major media publisher), and a Public Prosecutor's office following the October 4 release of 13 terrorists accused of planting bombs following a court decision to dismiss evidence it determined was obtained illegally.

Chilean law enforcement agencies also confronted sporadic low-level violence throughout the year related to indigenous land disputes. The Coordinadora Arauco Malleco, a domestic group primarily operating in the Biobio and Araucania regions of Chile that seeks recovery of former indigenous lands – sometimes through violent means – claimed responsibility for several of the attacks.

Legislation and Law Enforcement: The U.S. Federal Bureau of Investigation finalized an agreement with the Chilean Investigative Police to exchange biometric information under the South American Fingerprint Exchange program. U.S. officials collaborated with the Servicio Medico Legal (Chile's official forensic service) to implement the latest version of the Combined DNA Indexing System, certify the laboratory, and ensure that laboratory personnel receive appropriate training. Chile is the only country in South America using this version, and as such, is a regional leader in biometrics. Chile participated in the Department of State's Antiterrorism Assistance program.

Countering Terrorist Finance: Chile is a member of the Financial Action Task Force on Money Laundering in South America, a Financial Action Task Force-style regional body and the Egmont Group. In 2011, a bill was introduced that would modify and establish specific roles for the Financial Analysis Unit in tracking the financing of terrorist activities. Chile has a large and well-developed banking and financial sector with an established Anti-Money Laundering/Counterterrorism Financing regime. All banks, financial institutions, and companies involved in money transfers were required to report suspicious transactions. Chile used a "list" approach to identify predicate offenses for money laundering, which include narcotics trafficking, terrorism in any form, the financing of terrorist acts or groups, illegal arms trafficking, kidnapping, fraud, corruption, child prostitution, pornography, and some instances of adult prostitution.

For further information on money laundering and financial crimes, we refer you to the 2011 International Narcotics Control Strategy Report (INCSR), Volume 2, Money Laundering and Financial Crimes: <http://www.state.gov/j/inl/rls/nrcrpt/index.htm>.

Regional and International Cooperation: Chile is actively involved in both multilateral and regional organizations, including the United Nations (UN), Organization of American States (OAS), and Asia Pacific Economic Cooperation (APEC), and incorporated their recommendations into its security strategy. Chile also collaborated on bilateral and sub-regional activities to prevent terrorism through the Southern Common Market, and participated in international initiatives such as the Global Initiative to Combat Nuclear Terrorism.

During the year, the Chilean government was involved in UN discussions on the framework of the Global Counterterrorism Strategy, and also participated in programs carried out by the Executive Secretariat of the OAS' Inter-American Committee Against Terrorism and the Terrorism Working Group of APEC's Counterterrorism Task Force.

International Sanctions

None applicable

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	67
World Governance Indicator – Control of Corruption	82

Companies face very low risks of corruption in Chile, the least corrupt country in Latin America. Chile has strong and transparent institutions that promote business and that have effective mechanisms to investigate and punish corrupt practices. Risks stem mostly from a strong connection between politicians and the economy, which can affect public procurement. A series of corruption cases in 2015 raised concern about corruption, but Chile is actively investigating the issues. The Criminal Code and the Criminal Corporate Liability Law prohibit active and passive bribery of domestic and foreign public officials. Companies operating in Chile are advised to establish an effective compliance system. Facilitation payments and gifts are not explicitly mentioned in Chilean laws, but businesses are unlikely to encounter these in practice. The maximum penalty for bribery is imprisonment of up to five years and fines for individuals, and fines and a ban from government contracts and benefits for corporate entities. **Information provided by GAN Integrity.**

US State Department

Corruption in Chile is limited. Since 2003, Chile has had laws in place that establish a more efficient and professional civil service through performance-based incentives and a reduction in political appointee positions in public service positions. In 2005, the GOC passed a law to regulate political party and candidate financing to further deter corrupt government practices.

Chile has signed and ratified the Organization of American States (OAS) Convention against Corruption, as well as the UN Anticorruption Convention. Chile is also a signatory to the OECD Convention on Combating Bribery, fulfilling the necessary accession processes, including implementation of its Anti-Bribery Convention obligations. Chile is an active member of the Open Government Partnership (OGP).

In 2007, a new law came into force that provides protection for public employees who denounce irregularities or violations in accountability standards. At the same time, Chile ratified the United Nations Convention against Corruption. In 2009, Chile passed a transparency law obligating government offices to public information about expenditures, employee salaries, and other fiscal data. It also mandates that citizens be provided up-to-date information on how to access government services and request information. The law created an autonomous Transparency Council which is charged with implementing the requirements of the law. The administration of President Piñera (2010-2014) launched a campaign to educate citizens about their right to access public information and created

Chile Atiende, an online and in-person platform to streamline access to common government services.

As noted previously, Chile ranked 22nd out of 177 countries in Transparency International's 2013 Corruption Perceptions Index (with 1 being the lowest perception of corruption).

Corruption and Government Transparency - Report by Global Security

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Section 3 - Economy

Chile has a market-oriented economy characterized by a high level of foreign trade and a reputation for strong financial institutions and sound policy that have given it the strongest sovereign bond rating in South America. Exports of goods and services account for approximately one-third of GDP, with commodities making up some 60% of total exports. Copper alone provides 20% of government revenue.

From 2003 through 2013, real growth averaged almost 5% per year, despite the slight contraction in 2009 that resulted from the global financial crisis. Growth slowed to an estimated 2.3% in 2015. A continued drop in copper prices prompted Chile to experience its second consecutive year of slow growth, elevated inflation, and a depreciating currency.

Chile deepened its longstanding commitment to trade liberalization with the signing of a free trade agreement with the US, which took effect on 1 January 2004. Chile has 22 trade agreements covering 60 countries including agreements with the EU, Mercosur, China, India, South Korea, and Mexico. In May 2010, Chile signed the OECD Convention, becoming the first South American country to join the OECD. In October 2015, Chile joined the US and 10 other countries and concluded negotiations on the Trans-Pacific Partnership trade agreement. The agreement will need to be ratified by the Chilean legislature.

The Chilean Government has generally followed a countercyclical fiscal policy, accumulating surpluses in sovereign wealth funds during periods of high copper prices and economic growth, and generally allowing deficit spending only during periods of low copper prices and growth. As of 31 October 2015, those sovereign wealth funds - kept mostly outside the country and separate from Central Bank reserves - amounted to more than \$22.4 billion. Chile used these funds to finance fiscal stimulus packages during the 2009 economic downturn.

In 2014, President Michelle BACHELET introduced tax reforms aimed at delivering her campaign promise to fight inequality and to provide access to education and health care. The reforms are expected to generate additional tax revenues equal to 3% of Chile's GDP, mostly by increasing corporate tax rates to OECD averages.

Agriculture - products:

grapes, apples, pears, onions, wheat, corn, oats, peaches, garlic, asparagus, beans; beef, poultry, wool; fish; timber

Industries:

copper, lithium, other minerals, foodstuffs, fish processing, iron and steel, wood and wood products, transport equipment, cement, textiles

Exports - commodities:

copper, fruit, fish products, paper and pulp, chemicals, wine

Exports - partners:

China 26.3%, US 13.2%, Japan 8.5%, South Korea 6.5%, Brazil 4.9% (2015)

Imports - commodities:

petroleum and petroleum products, chemicals, electrical and telecommunications equipment, industrial machinery, vehicles, natural gas

Imports - partners:

China 23.4%, US 18.8%, Brazil 7.8%, Argentina 4% (2015)

Banking

Chile's banking system offers many of the asset and liability products available in international markets. Foreign trade financing and money exchange operations are particularly well developed and efficient compared to the rest of Latin America.

Chile's Superintendence of Banks and Financial Institutions an agency under the Ministry of Finance, regulates the financial sector. Chile's Central Bank, which is autonomous from the government in conducting monetary policy and regulating foreign capital movements, also regulates bank operations.

Stock Exchange

The Santiago Stock Exchange (SSE) (Spanish: Bolsa de Comercio de Santiago), founded on November 27, 1893, is Chile's dominant stock exchange. About a decade ago the Chilean government implemented important reforms and measures aimed at promoting savings in investment securities including the exemption of capital gain tax on highly traded stocks of publicly traded companies, lowering taxes for foreign investors on interest payments, and advancing the integration of Chilean capital markets to the international financing market.

Executive Summary

- Chile is a coastal country located in the southwest region of South America. Chile is an attractive destination for investors, boasting an open market economy, well-developed institutions that support financial growth and strong rule of law. The country has a positive disposition toward foreign direct investment (FDI), viewing it as key to sustaining Chile's impressive economic trajectory over the last three decades. Its laws and regulations encourage investment by foreigners and very few restrictions upon FDI exist. Chile's conversion and transfer policies are similar to those found in highly-developed countries like the U.S. The government does not apply performance requirements in reviewing proposed investment projects. Chile's capital markets are well-developed and open to foreign portfolio investors, and the regulatory system in Chile is generally transparent.
- Chile's legal framework for attracting and protecting foreign direct investment (FDI) is solid. A new institution in charge of attracting foreign investment, the Foreign Investment Promotion Agency (APIE), was created to replace the Foreign Investment Committee (CIEChile), the former FDI authority. Chile's 2014 Tax Reform derogated a law that created tax invariability schemes for foreign investors, as well as a tax benefit for mergers through acquisitions. However, virtually all the rest of previous guarantees for FDI remained in place, and these changes have been implemented with transition periods and respect for previously concluded investment contracts.
- Legal disputes can take several years to reach conclusion in the courts, making arbitration and mediation attractive alternatives for resolving business controversies. Chile is a signatory to the 1958 New York Arbitration Convention and a member state to the International Centre for Settlement of Investment Disputes (ICSID); disputes under the U.S.-Chile bilateral Free Trade Agreement (FTA) are resolved under the latter framework. Chile is compliant with its World Trade Organization agreement on Trade-Related Investment Measures (WTO/TRIMS) obligations.
- Resolving insolvency has been made easier by a new legal and institutional framework, and as a result Chile has moved up 14 places from 2014 to 2015 in World Bank's Doing Business Report's ranking for this particular area.
- Rights to the broad range of private ownership and establishment are observed in Chile. Mineral, hydrocarbon, and fossil fuel deposits within Chilean territory are restricted from foreign ownership, but may be licensed by the government to private enterprise. In practice, the government does not expropriate assets or holdings.
- Real and intellectual property (IP) rights are generally respected, but Chile is not fully compliant with the obligations concerning IP set forth in the U.S.-Chile FTA.
- CODELCO, which dominates the copper mining industry, is one of only a few state-owned enterprises (SOEs), which generally operate on equal footing with private companies.
- There is growing awareness of the importance of responsible business conduct (RBC) in Chile. The government has recognized a number of 'soft law' instruments related to

RBC and developed national action plans related to business social responsibility, sustainable development and human rights.

- Political violence is rare and unlikely to affect foreign investors, but there is one region in the south of Chile where violence episodes linked to land disputes between indigenous groups and farmers and forestry businesses are becoming more frequent.
- Corruption exists in Chile but on a much smaller scale than is the case with most Latin American countries. Chile has a favorable ranking of 23 out of 167 countries on Transparency International’s 2015 Corruption Perceptions Index. A presidential committee against corruption and conflicts of interest created in 2015 issued a report recommending an anticorruption agenda composed of 236 new measures, laws and regulations, of which nearly half has already materialized.
- Chile has 41 bilateral investment agreements in force, and 24 other investment agreements in force, including the investment chapters of the FTA with the U.S. and other FTAs signed by Chile, the Latin American Integration treaty and the Protocol of the Pacific Alliance. Additionally, Chile is a party to the convention of the World Bank’s Multilateral Investment Guarantee Agency (MIGA). A U.S.-Chile bilateral treaty to avoid double taxation has been ratified by Chile, and is currently awaiting ratification in the U.S. Senate.
- Some employers view Chile’s labor laws as cumbersome. The government submitted a Labor Reform bill in 2015 that has been approved by both chambers of the Chilean Congress, but as of the publication date of this report the government was still determining how to move forward after a ruling by the country’s Constitutional Court invalidated a portion of the law. The reform will extend collective bargaining to more employees, limit replacement or workers during strikes, and strengthen the negotiating position of unions in the collective bargaining process.
- FDI to Chile in 2015 represented 8.5 percent of Chile’s GDP. Total FDI stock from the U.S. stood at USD 27.6 billion in Chile at the end of 2014 (most recent information available).

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	23 of 168	http://www.transparency.org/cpi2015#results-table
World Bank’s Doing Business Report “Ease of Doing Business”	2015	48 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	.71 of 1.00	globalinnovationindex.org/content/page/data-analysis

U.S. FDI in Chile (USD billions, stock positions)	2014	27.6	OECD FDI statistics database http://stats.oecd.org/Index.aspx?QueryId=64220
World Bank GNI per capita	2014	USD 14,910	data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

For over three decades, Chile has made FDI an essential part of its national development strategy. Chile's sound, market-oriented policies have created significant opportunities for foreign investors to participate in the country's steady economic growth. Chile's business climate is generally straightforward and transparent. Foreign investors receive treatment similar to Chilean nationals and there are no overall economic strategies or policies that have discriminatory effects on foreign investors or foreign-owned investments. A broad political consensus on the advantages of foreign investment has meant that, despite having recently reformed its regulatory framework, the general orientation of Chile's policies toward FDI has been maintained.

Other Investment Policy Reviews

The government of Chile has conducted an investment policy review in the context of the Trade Policy Review published by the WTO on June 2015. The OECD has not conducted an Investment Policy Review for Chile since 1997, and the country has not been covered by UNCTAD's Investment Policy Reviews.

Laws/Regulations on Foreign Direct Investment

In 2015, Chile approved Law N° 20.848, in force since January 1, 2016, which establishes a new institutional framework for foreign investment. Its stated aim is to transition from a "passive FDI reception policy" to an "active FDI attraction policy." Law N° 20.848 derogates and replaces Law Decree 600 (DL 600), which had been the main regulatory norm for FDI in Chile for the last 40 years and under which foreign investors could sign contracts with the Government of Chile (GOC) establishing investment terms. Law N° 20.848 creates the obligation for the President to decide on a long-term FDI attraction strategy, with the advice from a Ministers Committee. The Foreign Investment Promotion Agency (APIE), created by the new law as the legal successor of the Foreign Investment Committee (CIEChile), will implement the national FDI in coordination with provincial authorities.

Despite the magnitude of this change, the new Chilean FDI framework maintains some key guarantees from the DL 600 period. First, it prohibits arbitrary discrimination to foreign investors. Second, it guarantees access to the formal foreign exchange market, including free remittance of capital and profits. Third, rights and obligations of contracts in force signed under DL 600 before this legal change will remain in force.

The new law provides a definition of foreign investor and FDI, and the applicable regime of rights and obligations for both. Foreign investors with a minimum investment of USD 5 million (same threshold than under DL600) may apply to a special FDI regime. If the application is

successful, they will receive a Foreign Investment Certificate (FIC), emitted by the APIE within a 15-day deadline and with no expiration date. The FIC recognizes the rights to non-discrimination, access to foreign exchange and free remittances mentioned above, as well as the exemption from value-added tax on imports of capital goods for up to USD 5 million, for seven types of investment projects: mining, industrial, forestry, energy, infrastructure, telecommunications; and R&D.

One of the major benefits of investing under DL 600 were the tax invariability schemes included in investment contracts. Under Law N° 20.848, tax invariability will no longer be granted. However, there will be a four-year transition period, starting on January 1, 2016, during which foreign investors will be able to secure a ten-year lock-in for a total effective income tax rate of 44.45% and/or a 15-year lock-in of mining royalties for investments amounted to no less than USD 50 million.

FDI in Chile enters under either APIE's Foreign Investment Certificates or Chapter XIV of the Central Bank of Chile's Compendium of Foreign Exchange Regulations (CFER). FDI valued below USD 5,000,000 but above USD 10,000 is made through Chapter XIV of the CFER. FDI valued at less than USD 10,000 does not require Central Bank approval. Chapter XIV establishes regulations that govern foreign exchange operations related to credits, deposits, investments, and capital contributions originating abroad. Investments made under Chapter XIV do not involve signing a contract with the Chilean state. Instead, the Central Bank grants authorization for a given investment. FDI made under Chapter XIV must be in a foreign currency and does not convey any special rights to the investor regarding tax rates. The investor must inform the Chilean Central Bank of the investment through a commercial bank or other authorized financial institution. The general regulations, terms, interest, and other modalities of foreign credit contracts as well as surcharges related to total costs to be paid by the debtor, including commissions, taxes, and expenses must also be authorized by the Central Bank.

Chile's 2014 Tax Reform included a legal change affecting the regulations regarding tax treatment for mergers through acquisitions. The new tax law abolishes the "goodwill" benefit, by which investors that acquired other firms through a merger process were able to claim the difference between the price paid at the acquisition and the book value of the acquired firm as a credit to lower tax payments over a period of ten years. A transition period allowed firms to continue claiming the benefit for mergers that were started before the end of 2014 and finished before the end of 2015.

Foreign investors are unlikely to experience government interference in Chile's court system.

Law N° 20.848 is available in English at:

http://www.ciechile.gob.cl/wp-content/uploads/2015/12/LEY-20848_25-JUN-2015-ENGLISH.pdf

The Foreign Investment Promotion Agency (APIE) explains the new institutional framework at:

<http://www.leyied.cl/>

A detailed description of the new institutional features is available at:

http://www.leyied.cl/wp-content/uploads/2015/12/ppt_R%C3%A9gimenIED02122015.pdf

Business Registration

For an individual or legal entity wishing to undertake an economic activity in Chile, the first step is to obtain a Tax Identification Number or RUT (its Spanish acronym) from the Internal Tax Service (SII). Applications can be submitted at any of the SII's offices around the country (see www.sii.cl). A RUT, which must be held by all taxpayers in Chile, is required for foreign investors in the following cases:

- Non-resident companies that invest in Chile, irrespective of the form taken by the investment.
- Individuals or legal entities not resident or domiciled in Chile that plan to participate in companies as partners or shareholders.
- Persons not resident or domiciled in Chile that open agencies or branches in the country or undertake activities through a permanent establishment.
- Non-resident individuals in Chile as company representatives, tourists and international officials and their accompanying family members and other non-residents if they invest in the country through, for example, the acquisition of real estate.

Individuals and legal entities not resident or domiciled in Chile who invest there in order to obtain income by buying and selling shares in listed corporations, fixed-income instruments, instruments of financial intermediation and quotas in mutual funds or through certain contracts can use a simplified mechanism for obtaining a RUT through institutions that act as custodians. If a custodian is not used, investors may obtain a RUT through their stockbrokers. More information on the next steps to start a business can be found here: <http://www.ciechile.gob.cl/en/guia-del-inversionista/>

In 2011, Chile made business start-up easier by introducing an online system for registration and for filing the request for publication and, in 2014, it created a new online system for business registration. Since 2012, an immediate temporary operating license is provided to new companies, eliminating the requirement for an inspection of premises by the tax authority before new companies can begin operations and allowing free online publication of the notice of a company's creation.

A company must typically register through a notary certification, give notice of initiation of activities to the Internal Tax Service (SII), obtain a working license from the competent municipality, and finally register with the labor-related accident insurance company.

The business registration process includes currently seven different procedures (compared to an OECD average of 4.7) and takes 5.5 days (compared to an OECD average of 8.3). Business creation regime includes a notary certification, but it is made through a digital signature online.

The Foreign Investment Promotion Agency (APIE), created by the Law N° 20.848 (see section 1) is in charge of implementing the national FDI attraction policy. Its services are not restricted to a specific type of investor in terms of amount of investment, number of employees or other criteria.

Chile defines micro enterprises as those with less than 10 employees; small-sized enterprises as those with 10 to 25 employees; medium-sized enterprises as those with 25 to 200 employees; and big enterprises as those with more than 200 employees. Alternatively, a commonly used

definition is based on annual sales. According to it, micro enterprises are defined as those with sales for less than USD 93,120; small-sized enterprises as those with sales from USD 93,120 to USD 970,000; medium-sized enterprises as those with sales from USD 970,000 to USD 3,880,000; and big enterprises as those with sales for more than 3,880,000.

There are no special services or preferences to facilitate investment and business operations by MSMEs.

[<http://www.economia.gob.cl/wp-content/uploads/2014/04/Boletin-Revision-Clasificacion-Estatuto-Pyme.pdf>]

Industrial Promotion

Since 2001, the Chilean Economic Development Agency (CORFO) has implemented Invest Chile, a program aimed to foster high impact FDI in certain sectors. The goal of this program was to encourage investment in non-traditional areas of such as information technology, biotechnology, research and development of new materials, non-conventional renewable energy, electronics and engineering processes, and new production techniques to add value to natural resources exports. The role of the government was to provide co-financing to pre-investment feasibility studies, as well as investments on fixed assets and training. This program is currently in a re-design stage, since it was transferred in 2014 to the APIE.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign investors have access to all productive activities, except for a limited number of restrictions in sectors such as maritime cabotage, air transportation and media. Some international reciprocity restrictions exist for fishing. Chile does not, in general, restrict the right to private ownership or establishment, except for some strategic activities such as nuclear energy and mining. Section 24 of Article 19 of the Constitution establishes the “absolute, exclusive, inalienable and permanent domain” of the Chilean state over all mineral, hydrocarbon, and fossil fuel deposits within Chilean territory. This implies that the exploration and exploitation of hydrocarbons, lithium and underwater mines in maritime national jurisdictions or zones determined by law as important for national security is, in principle, reserved to the state. There is also a government right to first-purchase option for thorium and uranium. However, Chilean law allows the government to assign contracts to private investors, including foreign investors, in all these activities. The government may grant concession rights to individuals and companies for exploration and development of these natural resources for a finite period. The investor may be paid with a percentage of the sales or in kind.

There are no limits on foreign ownership or control of firms in Chile; foreigners can hold up to 100% of an enterprise’s ownership. There are no time limits for the property rights acquired by foreigners to remain in force. There are no restrictions on foreign ownership of buildings and land, with the only, national security-related, exception of land located in border territories, which may not be owned by nationals of border countries, or by juridical persons which have their head office in such country or are owned 20 percent by nationals of such country, or controlled by them, unless prior authorization of the President of Chile.

Certain types of investment projects require additional authorization beyond the APIE certificates. There are no restrictions on foreign investment in telecommunications, but investors must acquire a license, and the number of licenses available is limited in some new sectors of the industry. The requirements for obtaining certain licenses in this sector remain

unclear as the industry evolves; at least one U.S.-based firm has experienced significant delays while attempting to secure licenses due to opaque license granting requirements. These delays are still ongoing. Projects in the copper mining sector require the Chilean Copper Commission's authorization; investments in the fishing sector require the approval of the Under-Secretariat of Fishing; authorization from the Superintendence of Banks and Financial Institutions is required to operate in the banking sector; and the Superintendence of Securities and Insurance must authorize projects related to insurance and investment funds. Additional authorizations are required from the Pension Funds and Private Health Insurance regulatory agencies to participate in those sectors. For projects with a potential environmental impact, authorization is required from the Environmental Evaluation Service, a decentralized service related to but independent from the Ministry of Environment.

Privatization Program

There are no ongoing privatization programs currently in Chile.

Screening of FDI

FDI is subject to pro forma screening by Chile's APIE. Businesses in general do not consider that such screening mechanisms constitute a barrier to investment, because approval procedures are expeditious and, with the exception of a few sensitive sectors, all investments are approved.

The law requires that the APIE approve investment proposals. Approval is required for investments exceeding USD 5 million or investments made in certain sectors, including the media and the provision of public services, and investments made by foreign governments or by foreign public entities.

Competition Law

Foreign investors are not required to seek a ruling before investing on the potential competition implications of a planned investment. Chile's anti-trust law, the Chilean Free Competition Act (1973), prohibits mergers or acquisitions that would prevent free competition in the industry at issue. An investor may voluntarily seek a ruling by an Antitrust Court that a planned investment would not have antitrust implications.

2. Conversion and Transfer Policies

Foreign Exchange

Law N° 20.848 that regulates FDI (described in section 1) prohibits arbitrary discrimination to foreign investors and guarantees access to the formal foreign exchange market, as well as the free remittance of capital and profits generated by investments. There are no other restrictions or limitations placed on foreign investors for the conversion, transfer or remittance of funds associated with an investment.

Chile's regulation ensures that capital markets are well developed and open to both foreign portfolio investment and FDI. In May 2000, Chile eliminated the one-year withholding period requirement for foreign capital entering the country under Chapter XIV. This type of investment capital may now be repatriated immediately without penalty. Also in 2000, Chile ceased to implement capital controls on short-term inflows, known as "encaje," which required foreign investors to deposit 30 percent of foreign-sourced loans and portfolio

investment with the Central Bank in a non-interest-bearing account for up to two years. However, the Central Bank reserves the right to re-impose this mechanism if needed in the future.

Investors, importers, and others are guaranteed access to foreign exchange in the official inter-bank currency market without restriction. The Central Bank reserves the right to deny access to the inter-bank currency market for royalty payments in excess of five percent of sales. The same restriction applies to payments for the use of patents that exceed five percent of sales. In such cases, firms would have access to the informal market. The Chilean tax service reserves the right to prevent royalties of over five percent of sales from being counted as expenses for domestic tax purposes.

Chile has a free floating (flexible) exchange rate system. Exchange rates of foreign currencies are fully determined by the market. The Central Bank reserves the right to intervene under exceptional circumstances to correct significant deviations of the currency from its fundamentals, so the Chilean system is sometimes called "dirty float." In practice, however, this right to intervene is used sparingly (if at all).

Transfers of currency are protected by Article VII of the International Monetary Fund (IMF) Articles of Agreement (<http://www.imf.org/External/Pubs/FT/AA/index.htm#art7>)

Remittance Policies

Remittances of profits generated by investments can be made any time after tax obligations are fulfilled; remittances of the capital can be made after one year since the date of entry into the country. In practice, this one-year permanency requirement for capital has not constituted a restriction for productive investment, because normally projects need more than one year to mature. Under the Investment Chapter of the U.S.–Chile FTA, the parties must allow transfers of covered investments to be made freely and without delay into and out of its territory. These include transfers of profits, royalties, sales proceeds, and other remittances related to the investment. However, for certain types of short-term capital flows, this chapter allows Chile to impose transfer restrictions for up to 12 months as long as those restrictions do not substantially impede transfers. If restrictions are found to impede transfers substantially, damages accrue from the date of the initiation of the measure.

The exchange rate permitted for remittances of capital and profits will be the most favorable rate that foreign investors can obtain at any authorized entity operating in the formal exchange market.

Chile does not engage in currency manipulation practices.

Chile is classified as a country "of concern" in the Bureau of International Narcotics and Law Enforcement's 2015 International Narcotics Control Strategy Report (INCSR).

3. Expropriation and Compensation

Chilean law grants the government authority to expropriate property, including property of foreign investors, only for public or national interests, on a non-discriminatory basis and in accordance with due process.

Limited expropriations in Chile have occurred typically as a consequence of infrastructure and urban projects. Article 19.24 of the Constitution establishes that expropriations can take

place only under a general or special law authorizing expropriation for public purpose or national interest reason. Courts can hear on claims by those affected by expropriations, who have the right to cash compensation for their loss, either upon agreement with the state or by decision from the courts. Law Decree. N° 2186 of 1978 regulates the compensation procedures.

The law requires the payment of compensation without delay at fair market value, in addition to any applicable interest.

No government actions over the past five years indicate possible expropriations in the foreseeable future.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The legal system of Chile is based on civil law. The basis for its public law is the 1980 Constitution which was most recently reformed in 2005. Chile's legal and regulatory framework provides for effective means for enforcing property and contractual rights. Laws governing issues of interest to foreign investors are found in several statutes, including the Commercial Code of 1868, the Civil Code, the Labor Code and the General Banking Act. Chile has specialized courts for dealing with tax and labor issues.

The judicial system in Chile is generally transparent and independent. The likelihood of government intervention in court cases is low. If a state-dependent firm is involved in the dispute, the GOC may become directly involved through the State Defense Council. In cases where courts determine a firm is bankrupt, a receiver is named to distribute the debtor's remaining assets to the creditors.

Judgments of foreign courts and binding international arbitration rulings are generally recognized and enforced by local courts.

Bankruptcy

Chile implemented a new Law on Insolvency and Repeat Entrepreneurship in October 2014 that replaced a 1982 Bankruptcy Law. The new law aims to avoid punishing entrepreneurs for bankruptcy, allowing them instead to use resources and restart economic activities. Among other outcomes, it has reportedly clarified and simplified liquidation and reorganization of businesses, introduces provisions to facilitate the continuation of the debtor's business during insolvency, establishes a public office responsible for the general administration of insolvency proceedings (the new Superintendence of Insolvency and Re-entrepreneurship) and creates specialized insolvency courts.

The new Chilean insolvency framework requests creditors' approval for selection or appointment of the insolvency representative and for sale of substantial assets of the debtor. The creditor also has the right to object to decisions accepting or rejecting creditors' claims. However, the creditor is not given the right to request information from the insolvency representative. The creditor may file for insolvency of the debtor, but for liquidation only. The creditors are divided into classes for the purposes of voting on the reorganization plan, each class vote separately and creditors in the same class are treated equally.

According to the World Bank's Doing Business Report, this new insolvency framework has resulted on Chile making significant progress in making resolving insolvency easier. The country had the worst rating relative to the rest of the world in this area of the report and, as a consequence, it was where the bigger change in ranking was achieved (from 72nd place in 2014 to 58th place in 2015).

Investment Disputes

The Chilean state has never faced a dispute case from a foreign investor under Chile's Dispute Settlement systems in Free Trade Agreements.

Disputes involving U.S. investors have been typically settled in negotiations between the investor and the appropriate government entity. Disputes have been referred to the local judicial system although the time required for resolution may make this an unattractive option for foreign investors. Because of high case overloads, understaffing and antiquated case-management procedures, resolution of business disputes in the civil court system can take four to five years. Accordingly, litigants often choose to settle out of court.

Under the U.S.-Chile FTA's investment chapter, there have not been any claims that reached beyond the initial consultations stage. No cases where the claimant is from the U.S. and the respondent is Chilean are recorded in the ICSID website.

International Arbitration

Since 1958, Chile has been party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). It is also party to (i) the Pan-American Convention on Private International Law (Bustamante Code) since 1934; (ii) the Inter-American Convention on International Commercial Arbitration (Panama Convention) since 1976; and (iii) the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States since 1992.

Local courts respect and enforce foreign arbitral awards. Chile has a dual arbitration system in terms of regulation, meaning that different bodies of law govern domestic and international arbitration. International commercial arbitration is governed by the International Commercial Arbitration Act that is modeled on the 1985 UNCITRAL Model Law on International Commercial Arbitration. In addition to this statute, there is also Decree Law Number 2349 that regulates International Contracts for the Public Sector and sets forth a specific legal framework for the State and its entities to submit their disputes to international arbitration.

The FTA Investment Chapter provides a mechanism for investors to pursue a claim against a host government that is in breach of the FTA's investment obligations, an investment agreement, or an investment authorization. Only agreements that take effect at least two years after the FTA's entry into force may make use of this mechanism. Under this section, the investor pursuing a claim may by right submit a claim under the International Center for Settlement of Investment Disputes (ICSID) Convention or under the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules. Any other mutually agreed upon arbitral institution may also be utilized. Rules agreed upon by the parties will govern the proceedings except to the extent that they are inconsistent with the FTA. An investor must give notice of intent to arbitrate at least 90 days before submitting a claim, and must wait at least six months from the time of the event which gave rise to the claim before

initiating a proceeding. All claims must be brought within three years of the date when the claimant acquired knowledge of the breach and/or injury.

The FTA chapter on investment encourages consultations or negotiations before recourse to dispute settlement mechanisms. If the parties fail to resolve the matter, a claim for arbitration can be submitted by the investor. Provisions in Section C of the FTA ensure that the proceedings are transparent by requiring that all documents submitted to or issued by the tribunal be available to the public, and by stipulating that proceedings be public. The tribunal must also accept amicus curiae submissions. The FTA chapter on investments establishes clear and specific terms for making proceedings more efficient and avoiding frivolous claims. Chilean law is generally to be applied to all contracts. However, arbitral tribunals decide disputes in accordance with FTA obligations and applicable international law.

Mediation and binding arbitration exist in Chile as alternative dispute resolution mechanisms. A suit may also be brought in court under expedited procedures involving the abrogation of constitutional rights.

The Judiciary Code and the Code of Civil Procedure govern domestic arbitration.

ICSID Convention and New York Convention

Since 1991, Chile has been a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention). In 1975 Chile became a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

National arbitration law in Chile includes the Civil Procedure Code (Law Num. 1552, modified by Law Num. 20.217 of 2007), and the Law Num. 19.971 on International Commercial Arbitration.

Duration of Dispute Resolution – Local Courts

Arbitration and mediation are attractive alternative dispute mechanism for resolving business controversies because litigation can take several years to reach a conclusion. Rule of law and governance are strong within Chile. Generally, judgments and arbitral awards, including international judgments and awards, are recognized and enforced in Chile without issues. However, Chilean courts apply the rules of the International Commercial Arbitration Act, which means that the Supreme Court may refuse to recognize an arbitral award issued abroad if the award has not yet become binding on the parties, or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Chile does not maintain any measures which it has notified the World Trade Organization are inconsistent with its Trade Investment Measures (TRIMS) requirements, and does not maintain measures alleged to violate the country's TRIMS obligations.

Investment Incentives

Describe any form of investment incentive (e.g. grants, tax credit or deferral, access to loans, reduced cost of land) available to foreign investors. Report on any investment incentives that may lead to non-compliance with internationally recognized labor standards, such as waivers or derogations from labor laws in special economic zones (SEZs) and include the reference "also see section 15- labor" here (as applicable). If available, indicate if incentives are outlined in domestic laws, government administrative procedures, or obtained through party agreement.

Chile does not subsidize foreign investment. There are, however, some incentives linked to isolated geographical zones and to the information technology sector. These benefits relate to co-financing of feasibility studies as well as incentives for the purchase of land in industrial zones, the hiring of local labor, and the facilitation of project financing. Other important incentives include accelerated depreciation accounting for tax purposes and legal guarantees for remitting profits and capital.

Chile has other special incentive programs aimed mostly at promoting investment and employment in remote regions (Arica and Parinacota, Tarapacá, Aysen, Magallanes, Chiloé and Palena provinces of the Los Lagos region), as well as other areas that suffer of productive development lags. These tax incentives and subsidies are open for local and foreign firms and benefit either a percentage of the investment on fixed assets or the labor cost for hiring workers. Other incentives for investment are oriented to the development of new businesses, support for micro-, small-, and medium-sized enterprises, and promotion of technological innovation.

Other investment incentives have been introduced through the "Chile Competes Plan." The Plan includes an exemption from the income tax normally paid by institutional investors, such as mutual funds and pension funds, on earnings from the transfer of corporate stock that is publicly traded, or bonds or other publicly offered securities representing debt issued by the Central Bank of Chile, the Chilean Government, or by companies incorporated in Chile.

In January 2011, the Ministry of Economy, through CORFO, established a USD 40 million program, known as "StartUp Chile," whereby selected entrepreneurs receive a USD 40,000 grant and a Chilean work visa to develop a "start up" business in Chile. Upon admittance into the program, an entrepreneur is given six months to develop a project and then promote it through a series of pitches and seminars at local universities, corporate meetings and other community outreach. On January 2015, the program launched the call for its 12th generation, with 100 new vacants.

Chile does not have investment incentives that may lead waivers or derogations from labor laws in special economic zones (also see section 15- labor).

Research and Development

In general terms there is no distinction regarding foreign ownership in the availability of subsidies for research and development. Under Chile's R&D law, there is a tax incentive for private investment on research and development, designed for "Chilean entities", which means that they have to pay corporate income tax in Chile and use standard accounting systems. However, these beneficiaries can be Chilean branches of foreign companies, or Chilean firms owned by foreign capitals.

Performance Requirements

Neither Chile's Foreign Investment Promotion Agency nor the Central Bank applies performance requirements in its review of proposed investment projects. The investment chapter in the U.S.–Chile FTA establishes rules prohibiting performance requirements that apply to all investments, whether by a third party or domestic investors. The FTA investment chapter also regulates the use of mandatory performance requirements as a condition for receiving incentives and spells out certain exceptions. These include government procurement, qualifications for export and foreign aid programs, and non-discriminatory health, safety, and environmental requirements.

Data Storage

There are no requirements of which Post is aware for foreign IT providers to turn over source code and/or provide access to surveillance.

The Chilean government does not follow “forced localization.” Foreign investors are not obliged to use domestic content in technology. However, a process is underway to draft new legislation on digital privacy.

6. Protection of Property Rights

Real Property

Secured interests in property, both movable and real, are recognized and generally enforced in Chile. Chile ranked 56 out of 189 economies in the World Bank’s 2015 Doing Business report for property registration.

There is a recognized and generally reliable system for recording mortgages and other forms of liens.

In the specific index for quality of land administration (which includes reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution), Chile obtains a score of 15 out of 30. There are no restrictions to foreign and/or non-resident investors regarding land lease or acquisition.

Intellectual Property Rights

With some exceptions, Chile has a relatively strong intellectual property regime, as a result of successive amendments to its legal structure. According to the World Intellectual Property Organization (WIPO) Country Profile study, Chile has modified its IP law several times during the past two decades, strengthening IP protection significantly by adapting the national legislation to the standards set forth in the TRIPS Agreement and several Free Trade Agreements signed by the country. The last amendment to Chile’s IP Law entered into force in February, 2012, and incorporated certain provisions agreed by Chile through the signature of the Trademark Law Treaty (TLT) and the Patent Cooperation Treaty (PCT). According to the U.S. Chamber of Commerce’s International IP Index, Chilean legislation provides for fair and transparent use of compulsory licensing; legal measures provide necessary exclusive rights to copyright holders and voluntary notification system; and there are civil and procedural remedies in legislation. However, pharmaceutical and agrochemical products suffer from relatively weak patenting procedures, the absence of an effective patent enforcement and resolution mechanism, and some gaps in regulation governing data protection. The framework to promote action against online piracy, as well as trade secret protection, is considered insufficient. Furthermore, despite obligations in the bilateral FTA,

Chile still has not passed legislation to outlaw the theft of encrypted program-carrying satellite signals, which is a serious problem in the country.

Chile's IPR enforcement remains, according to the report mentioned above, relatively lax, particularly in relation to piracy, copyright and patent protection, while prosecution of IP infringement is hindered by gaps in the legal framework and lack of resources. Culture plays a significant role in the relatively high levels of infringement on IP rights. Rights holders reportedly indicate a need for greater resources devoted to customs operations and a better-defined procedure for dealing with small packages containing infringing goods. The legal basis for detaining and seizing suspected transshipments appears to be insufficiently clear.

A pending draft bill submitted to Congress in April 2013 would replace Chile's Industrial Property Law. Its aim is to simplify procedures and reduce the time and financial costs associated with registering new IP rights. According to the National Institute of Industrial Property (INAPI) the new IP law would reduce to half the times for various procedures, eliminate unnecessary formalities and promote the use of online procedures. The bill has received numerous modifications in the Senate and is awaiting further passage, but no urgency has been assigned to it by the Executive Branch.

Ratification of the Trans-Pacific Partnership (TPP) would also improve the overall IPR protection in Chile, including a reiteration of the obligation to implement UPOV 91.

An estimated figure for seizures of counterfeit goods in Chile coming from reports made by the National Customs Service, indicates that 2,200,000 pirated items were seized during the first 11 months of 2015.

Chile has been included on the Special 301 Priority Watch List (PWL) since January 8, 2007, and remains on the 2016 Priority Watch List. The main challenges are related to concerns regarding longstanding IPR issues under the U.S.-Chile Free Trade Agreement and addressed by the recently finalized negotiations of TPP: the implementation of protections measures against circumvention of technological protection measures and protections for encrypted program-carrying satellite signals; remedies for rights holders and satellite and cable service providers, including measures related to decoder boxes; pending implementation of UPOV 91; the implementation of an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products; adequate protection for undisclosed data generated to obtain marketing approval for pharmaceutical products; and amendments to Chile's Internet Service Provider liability regime to permit effective action against Internet piracy.

Chile is not listed in the USTR's Notorious Markets List, neither as home to a physical market for counterfeit and pirated products, nor as a base for online sites that facilitate IPR infringement.

Law No. 19,912 gives customs officials *ex officio* authority to detain goods entering Chile, but only for five days; after that, a formal seizure order is required to retain the goods.

Chile has made progress in recent years, including in 2015, to reduce processing times for patents, to increase IP enforcement actions, and reduce the rate of unlicensed software use.

Resources for Rights Holders

- Ted Bryan
- Senior Economic Officer
- (56-2) 2330 3397
- bryanat@state.gov

Contact information for country-specific resources:

- Roberto Matus
- General Manager
- AmCham Chile
- (56)-(2)-2290-9760
- roberto.matus@amchamchile.cl

7. Transparency of the Regulatory System

Chilean regulatory systems tend to be transparent, and government regulators generally have little discretion in carrying out their duties. Legal, regulatory, and accounting systems provide clear rules for competition and a level playing field for foreigners.

The legislation process in Chile allows for public hearings during discussion of draft bills in both Chambers of Congress. Draft bills submitted by the Executive Branch to the Congress are readily available for public comment. This has also been the case for the legislation that replaced the Decree Law 600 regulating foreign investment.

Ministries and regulatory agencies are required by law to give notice of proposed regulations, but not to publish them, request comments, report results of consultations on proposed regulations or conduct impact assessments of proposed regulations. For lower-level regulations or norms that do not need Congress approval, there are no formal provisions for public hearing or comment. As a result, Chilean regulators and rulemaking bodies normally engage with stakeholders for consultation, but in a less regular manner. According to the World Bank's Citizen Engagement in Rulemaking report, in Chile the steps mentioned above (notice, publication, comments, report and impact assessment) are followed in practice. However, the WB report is based on a small number of agencies (mostly from the Ministry of Economy) and its results do not necessarily reflect all ministries and agencies involved in rulemaking. Besides, the report does not capture the quality of such engagement and assessment.

Some private sector representatives think that Chile does not, in fact, have an open public consultation process on draft bills before they are submitted to Congress, and any change to them once already in Congress is more difficult. Some open comment periods for new draft bills have reportedly taken place without real access to the text and did not sufficiently allow for a technical debate.

The OECD "Regulatory Policy in Chile" report issued in April 2016 finds that Chile has taken steps to improve its rule-making process, but still lags behind the OECD average in assessing the impact of regulations, consulting with outside parties on their design and evaluating

them over time. The report criticizes that most regulators in Chile prepare new norms without clear evidence that regulation is the best way to intervene. One of the main findings is Chile's lack of a regulatory oversight body, and the OECD report recommends the creation of one to oversee the rule-making process currently managed by different government departments. It also recommends that Chile develop mandatory standards and guidelines for the preparation of laws and regulations, including compulsory consultation practices and forward planning. Regulatory management tools such as regulatory impact assessments and ex-post evaluations are also recommended.

8. Efficient Capital Markets and Portfolio Investment

Chile's capital markets are well-developed and open to foreign portfolio investors.

Under the U.S.-Chile FTA, U.S. insurance firms have full rights to establish subsidiaries or joint ventures for all insurance sectors, with limited exceptions. A program was undertaken to phase in insurance branching rights and to modify Chile's legislation to open cross-border supply of key insurance sectors such as marine, aviation, and transport insurance, and insurance brokerage of reinsurance. U.S. banks and securities firms are allowed to establish branches and subsidiaries and may invest in local firms without restriction, except under very limited circumstances. U.S. financial institutions are also able to offer financial services to citizens participating in Chile's privatized voluntary saving plans, and they have gained increased market access to Chile's mandatory social security system. U.S.-based firms are allowed to offer services in Chile in areas such as financial information, data processing, and financial advisory services, with limited exceptions. Under the measures outlined in "Capital Market Reform III," Chilean mutual funds are permitted to use foreign-based portfolio managers.

Credit is allocated on market terms and is available to foreigners, although the Central Bank does reserve the right to restrict foreign investors' access to internal credit if a credit shortage exists. To date, this authority has not been exercised.

Money and Banking System, Hostile Takeovers

The Chilean banking system is sound, competitive, and meets Basel standards. There are currently 24 banks operating in Chile, and 4 are foreign-owned representational branches. Only one bank is completely owned by Chilean private shareholders (BCI). The rest have some level of incorporation with foreign institutions. There are also seven local savings and loan corporations, and one state-owned bank, Banco Estado, which is the nation's third largest. Private banks manage most corporate business.

The Chilean banking system's total assets, as of February 2015, amounted to USD 294.9 billion, according to the Superintendence of Banks and Financial Institutions.

Foreign banks can compete on the same terms as their domestic rivals.

9. Competition from State-Owned Enterprises

Chile has 33 state-owned enterprises (SOEs). All of them are commercial companies. The most relevant of them are the national copper company (CODELCO); the national hydrocarbons company (ENAP); the National Postal System (Correos de Chile); the public TV station (TVN); and the state-owned bank (Banco Estado). 30 of 33 Chilean SOEs are non-listed in the stock exchange and fully owned by the government. The remaining three are

majority owned. 10 Chilean SOEs operate in the port management sector; eight in the services sector, three in the defense sector, three in communications (including), two in the water sector, two in transportation and four in the mining sector. The state also holds a minority stake in four water companies as a result of a privatization process. Total assets of SOEs, excluding Banco Estado, amounted to USD 44.9 billion in 2014. Total assets of SOEs, including Banco Estado, amounted to USD 61.9 billion in 2014. SOEs employed 49,229 people in 2014.

A list of SOEs, with access to its financial management information, is published online by the Budget Directorate in the following link. <http://www.dipres.gob.cl/596/w3-channel.html>

Chile is not a party to the Government Procurement Agreement. It has only observer status under the Agreement.

In general, private enterprise is allowed to compete with public enterprise under the same terms and conditions (e.g., there are many private copper mines and private banks). However, there are specific areas where this does not hold and SOEs enjoy special advantages. For example, ENAP is the only refining company in Chile.

SOEs are subject to the same taxes and the same value added tax rebate policies as their private sector competitors. They are not afforded material advantages and are subject to hard budget constraints.

OECD Guidelines on Corporate Governance of SOEs

As an OECD member, Chile adheres to the OECD Guidelines on Corporate Governance for SOEs. According to the World Bank's 2014 publication "Corporate Governance of State-Owned Enterprises in Latin America: Current Trends and Country Cases", Chile has made significant progress in the harmonization of standards across SOEs in the areas of information disclosure, accounting provisions, and auditing. Each SOE submits an annual report and has the obligation to publish quarterly management reports. All SOEs are required to have internal auditors and are subject to an annual external audit by independent auditing firms. All SOEs are headed by a board of directors and there is a clear definition and division of the roles played by the SOE Board and the CEO.

Most SOEs in Chile fall under the supervision of the Public Enterprises System (SEP), which is the main ownership entity of the government responsible for overseeing SOE governance, as well as exercising minority rights in four water companies. Still, SEP exercises this role for only 22 of the country's 33 SOEs. Two of Chile's most important SOEs fall outside of SEP jurisdiction—Codelco, the world's largest copper producer, and ENAP, an oil exploration company. The 11 exceptions have their own supervisory structures but are still responsible to a separate government agency: Codelco, ENAP and ENAMI to the Ministry of Energy and Mining, TVN to the Ministry of the Secretary-General of Government, Corfo and Banco del Estado to the Ministry of Treasury, and the three defense SOEs to the Ministry of Defense. All 33 SOEs are accountable to Congress, the President and the General Comptroller Office. In accordance with OECD Guideline 5C, all SOEs (whether under SEPs authority or not) are subject to an external independent audit with resulting information made publicly available. Each SOE under SEP must have an internal audit committee, as recommended in OECD Guideline 5B. Chile's Public Enterprises System website is the following:

<http://www.sepchile.cl/>

Allocation of seats on the boards of Chilean SOEs is determined by the SEP, as described above, or outlined by the laws that regulate them. As CODELCO's corporate governance shows (see previous section), there is a mix between seats appointed by recommendation from an independent high-level civil service committee, and seats allocated by political authorities in the government.

Court processes regarding SOEs involved in investment disputes are transparent and non-discriminatory.

Sovereign Wealth Funds

Chile has two sovereign wealth funds constituted principally from fiscal surpluses coming from state copper revenues. The Economic and Social Stabilization Fund (FEES) was established in 2007 and was valued at USD 14.4 billion in February 2016. The FEES seeks to fund public debt payments and temporary deficit spending, in order to keep a countercyclical fiscal policy. The Pensions Reserve Fund (FRP) was established in 2006 and was valued at USD 8.2 billion as of February 2016. The stated purpose of this fund is to anticipate future needs of payments from the Government to those eligible to receive pensions but whose contributions to the private pension system fall behind a minimum guaranteed by the State.

Chile is a member of the International Working Group of Sovereign Wealth Funds (IWG) and adheres to the Santiago Principles.

Chile's government policy is to invest SWFs totally abroad, in instruments denominated in different foreign currencies. As of February 2016, FEES' portfolio consisted in 90% of sovereign bonds and bank instruments, 3.6% of inflation-indexed sovereign bonds and 6.4% of stocks. At the same date, FRP's portfolio consisted in 50.3% of sovereign bonds and related instruments, 16.5% of inflation-indexed bonds, 20% of corporate bonds and 13.2% of stocks. 35.3% of this portfolio was invested in the U.S., while 14.7% in Japan and 9.5% in the U.K.

The government has not imposed any measure directed to channel SWF investments to industrial policies or government-designated projects.

Chile's SWFs are managed with a passive role as portfolio investments.

10. Responsible Business Conduct

There is general awareness of corporate social responsibility among both producers and consumers in Chile.

The government of Chile recognizes the diversity of definitions for Responsible Business Conduct, indicating the United Nations' Río+20 Conference statements as its principal reference. The Council on Social Responsibility for Sustainable Development, coordinated by Chile's Ministry of Economy, developed an Action Plan for 2015-2018 with 17 new measures to help bolster RBC, and is currently developing a National Policy on Social Responsibility.

In 2014, the Ministry of Environment published a Handbook for Sustainable Public Procurement. ChileCompra, the agency in charge of centralizing Chile's public procurement, which amounts to 3.5% of GDP incorporates, as part of its criteria for assignment of public purchases, the existence of a Clean Production Certificate and an ISO 14001-2004 certificate on environmental management, among others.

No high-profile, controversial instances of corporate impact on human rights have occurred in Chile in recent years.

The Chilean government enforces domestic labor, employment, consumer and environmental protection laws. There has been no dispute settlement cases against Chile related to the Labor and Environment Chapters of the Free Trade Agreements signed by Chile.

The Superintendence of Securities and Insurance (SVS), a government independent agency, is the Chilean competent authority in this matter, with a regulatory, surveillance, sanctioning and market development role. The SVS has the responsibility of regulating and supervising all listed companies. Under Chilean law, companies are generally required to have an audit committee, a directors committee, an anti-money laundering committee and an anti-terrorism finance committee. The laws do not require companies to have a nominating/corporate governance committee or a compensation committee. Compensation programs are typically established by the board of directors and/or the Directors Committee.

In 2012, the SVS issued a regulation for the dissemination of information on corporate governance standards adopted by listed corporations. This regulation, General Standard No. 341, was intended to encourage the adoption of good corporate governance practices by disclosing voluntarily adopted by those entities.

Independent NGOs in Chile promote and monitor freely RBC. Examples include NGO Acción RSE: <http://www.accionrse.cl/>, and the Catholic University of Valparaiso's Center for Social Responsibility and Sustainable Development (VINCULAR), ProHumana Foundation and the Andrés Bello University's Center Vitrina Ambiental.

The government encourages foreign and local enterprises to follow generally accepted RBC principles. Chile adhered in 1997 to the OECD Guidelines for Multinational Enterprises, and has recognized four other "soft law" instruments related to RBC: the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy; the United Nations Guiding Principles on Business and Human Rights; UN Global Compact's Ten Principles; and the ISO 26000 Guidance on Social Responsibility. Chile is in the process of developing a National Action Plan on Business and Human Rights based on the Guiding Principles.

The Chilean government maintains a National Contact Point (NCP) for OECD MNE guidelines, who is currently the head of the OECD Department at DIRECON.

Chile is an OECD member, but is not participating actively in the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas. Chile is not part of the Extractive Industries Transparency Initiative (EITI).

11. Political Violence

Since its return to democracy in 1990, the incidence of terrorist activity and civil disturbance in Chile is generally low, and the violence that has occurred has had little impact on the Chilean economy. Crime rates are moderate throughout the country, and the vast majority of crimes are nonviolent. During the last 10 years there have been relatively few incidents of politically motivated attacks on investment projects or installations. Between 2011 and 2013, there were occasional incidents of vandalism of storefronts and public transport during

student protests, some of which included violent incidents. Incidents of anti-American sentiment and civil disorder are rare, and there have been no attacks known to be attributable to international terrorist organizations. Since 2007, Chile has experienced a number of small-scale bombings targeting mostly banks and police stations, usually at night. Some explosive and incendiary devices have been placed in public spaces throughout Santiago, including ATM's, metro stations, and churches. In 2014, a bomb placed at a busy metro station left 14 people injured. Anarchist groups often claim responsibility for these acts, and the Chilean government investigates these incidents as acts of terrorism.

Over the last 20 years, there has been a growing trend of violent incidents related to the land claims and other grievances of indigenous communities (the Mapuche people, native to southern Chile) in the Araucania region and one province in the southwest of Bio-Bio region. These incidents have included attacks on farms, forestry plantations and forestry contractors' machinery and vehicles, resulting in over half-dozen deaths, injuries, and damage to property. The government has invoked an anti-terrorist law to prosecute some of these criminal cases, but insufficient evidence and other factors have limited convictions.

Civil disturbance is not present at levels that could put investments at risk or destabilize the government. However, there is an active civil society and demonstrations occur frequently. Although most are peaceful and have pre-approved routes, they sometimes change course or end up with clashes with the police. More violent demonstrations are common on March 29 - the Day of the Young Combatant, and September 11 - the anniversary of the 1973 coup against the government of President Salvador Allende.

12. Corruption

Chile has implemented, in a non-discriminatory manner, various laws to combat corruption of public officials. They include, among others: (a) a 2003 law establishing a more efficient and professional civil service through performance-based incentives and a reduction in political appointee positions; (b) a 2005 law to regulate political party and candidate financing; (c) a 2007 law that provides protection for public employees who denounce wrongdoing or violations in accountability standards; (d) the ratification of the UN Convention against Corruption; and (e) the 2009 Transparency Law, regarding disclosure of public information related to all areas of government, which also created an autonomous Transparency Council in charge of implementing the law and overseeing its application.

The extent of corruption in Chile is relatively limited: Chile ranked 23rd out of 167 countries in Transparency International's 2015 Corruption Perceptions Index (with 70 out of 100 maximum score), two places below Uruguay and above all other countries from Latin America. However, a series of corruption scandals related to tax fraud and campaign financing during 2015, which involved major firms and politicians across the spectrum, has caused concern. Investigation and prosecution of these cases remains ongoing, and criminal and civil charges against those implicated have been pursued.

In reaction to the latter, a presidential committee against corruption and conflicts of interest was created in February 2015 and, in November, it released a report recommending 236 measures on five areas (corruption prevention, regulation of conflicts of interest, ethics and citizen rights, political financing and market transparency). Draft legislation based on the Committee's recommendations has been submitted to Congress throughout 2015. Additionally, a new NGO -the Anticorruption Observatory- was launched in order to monitor

the implementation of these measures, which can be followed up at:

<http://observatorioanticorrupcion.cl/>

According to the Anticorruption Observatory, even though many new laws, regulations and other measures of this new anticorruption agenda have not yet materialized, and some of the new measures are evaluated as incomplete, the Committee's recommendations have turned into several new legislation drafts, some enacted laws, and multiple new regulations. These include expanding the scope of mandatory asset disclosure requirements, as well as a new law on blind trust management, and a code on best practices for lobbying firms. The scope of the civil service system will be expanded through a draft bill, currently at an advanced stage in Congress, which will incorporate agencies previously politically appointed and limit other forms of political influence in appointments. On corruption prevention, a new law increasing the number of restrictions on appointments seeks to prevent conflicting interests between different functions in public institutions, the Legislative Branch, lobbying firms and other private firms. A new campaign finance law establishes limits to private contributions to political campaigns. On corruption prosecution, a new draft bill has been submitted which increases punishments for bribery to public officials and incorporates private corruption crime types. On transparency, Chile has joined the Executive Committee of the Open Government Alliance. Finally, new regulations on government procurement have been set up. The Anticorruption Observatory estimated, after weighting the proposed measures by importance, that the level of progress of the anticorruption agenda is 55%.

Anti-corruption laws do extend to family members of officials, in particular restrictions on appointments, and laws regulating political parties are currently being discussed and implemented in order to set stricter standards.

As part of the new anticorruption agenda, a new channel in the Chilecompra website has been created to anonymously denounce irregularities on government procurement, and sanctions to public officials who do not adequately justify direct contracts have been established.

Additionally, a draft bill has been submitted to Congress that will create a semi-independent civil service Public Works Concessions Directorate, aimed to strengthen project design and avoid risk of capture from contractors.

Chile's Corporate Criminal Liability Law explicitly provides credit for corporate compliance programs by which corporations are obliged to prevent specific crimes like bribery. The Corporate Criminal Liability Law provides that corporate entities can have their compliance programs certified. Chile's Securities and Insurance Superintendence (SVS) authorizes a group of local firms to review companies' compliance programs and certify them as sufficient. Certifying firms are listed on the SVS website. Additionally, Chile Transparente (Chilean branch of Transparency International) developed a Corruption Prevention System to provide assistance to private firms to facilitate their compliance with the Corporate Criminal Liability Law.

Private companies have increasingly incorporated internal control measures, as well as ethics committees as part of their corporate governance, and compliance management sections.

Chile has signed and ratified the Organization of American States (OAS) Convention against Corruption. Chile is also an active member of the Open Government Partnership (OGP).

NGO's that investigate corruption operate in a free and adequately protected manner.

U.S. firms have not identified corruption as an obstacle to FDI.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

UN Anticorruption Convention: Has the country/economy signed and ratified the UN Anticorruption Convention (see list of signatories at <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>)?

OECD Convention on Combatting Bribery: Is the country/economy party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (see list of signatories and their implementation reports at <http://www.oecd.org/daf/anti-bribery/countryreportsonteimplementationoftheoecdanti-briberyconvention.htm>)?

Chile has signed and ratified both the UN Anticorruption Convention and OECD Convention on Combatting Bribery.

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:

- Raúl Ferrada
- Director General
- Consejo para la Transparencia

- Morandé 360 piso 7
- (+56)-(2)-2495-2000
- rferrada@consejotransparencia.cl

Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption, such as Transparency International):

- Alberto Precht
- Executive Director

- Chile Transparente (Chile branch of Transparency International)
- Avenida Rancagua 535 7501089 Providencia, Santiago, Chile
- (+56)-(2)-2274-3627
- chiletransparente@chiletransparente.cl

- Pablo Collada
- Executive Director

- Ciudadano Inteligente (Founder NGO of the Anticorruption Observatory)
- Holanda 895, Providencia, Santiago, Chile
- (+56)-(2)-2419-2770
- info@ciudadanointeligente.org

13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Chile has negotiated numerous Bilateral Investment Treaties (BITs). According to ICSID, Chile had signed 55 BITs, of which 41 are in force to date. There are agreements in force with Argentina, Australia, Austria, Belgium and Luxembourg, Bolivia, China, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Guatemala, Honduras, Iceland, Italy, Malaysia, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland (2 treaties), Portugal, Romania, South Korea, Spain, Sweden, Switzerland (1999 treaty), Ukraine, the United Kingdom, Uruguay (2 treaties), and Venezuela. BITs signed but not in force include those with Brazil, Colombia, Dominican Republic, Egypt, Hungary, Indonesia, Lebanon, Netherlands, New Zealand, South Africa, Switzerland (1991 treaty), Tunisia, Turkey and Vietnam.

Chile has an investment chapter in the FTA in force between Chile and the U.S. since January 1, 2004.

According to UNCTAD's database <http://investmentpolicyhub.unctad.org/IIA>, Chile has other investment treaties with 29 countries, of which 24 are in force. Apart from U.S.-Chile FTA, Chile's other FTAs with investment chapters are the agreements signed (in chronological order) with: Venezuela, Bolivia, Colombia (1993 agreement), Mercosur, Canada, Mexico, the Central American Common Market, the European Union, the European Free Trade Association, India, the P-4 parties (Brunei Darussalam, New Zealand and Singapore), China, Panama, Peru, Colombia (2006 agreement), Japan, Ecuador, Australia, Turkey, Malaysia, Viet Nam, Hong Kong, and Thailand.

Other treaties through which Chile grants bilateral or plurilateral investment protection include the LAIA Treaty, the Additional Protocol of the Pacific Alliance and the Brazil-Chile Cooperation and Facilitation Investment Agreement.

Chile has not signed a bilateral investment treaty with the U.S.

A list of all countries with which the U.S. currently has bilateral investment treaties is available at <http://www.state.gov/e/eb/afd/bit/117402.htm> and FTAs at <http://www.ustr.gov/trade-agreements/free-trade-agreements>. (The NAFTA and all U.S. FTAs (except Bahrain) entered into since 2002 contain investment chapters.)

Chile and the United States have signed in 2010 the U.S.-Chile Treaty to Avoid Double Taxation. The Chilean Congress ratified the treaty in September 2015. In May 2012, President Obama submitted the treaty to the U.S. Senate for ratification, which is pending.

Chile has 26 double taxation treaties in force with: Australia, Austria, Belgium, Brazil, Canada, Colombia, Croatia, Denmark, Ecuador, France, Ireland, Malaysia, Mexico, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russia, South Korea, Spain, Sweden, Switzerland, Thailand and the United Kingdom.

Apart from the U.S.-Chile treaty, Chile has other seven double taxation treaties or conventions pending ratification with: Argentina, China, Czech Republic, Italy, Japan, South Africa and Uruguay.

14. Foreign Trade Zones/Free Ports/Trade Facilitation

Chile has two tax-free zones: one in the northern port city of Iquique (Tarapacá Region) and the other in the southern city of Punta Arenas (Magallanes Region). Merchants and manufacturers in these zones are exempt from corporate income tax, value added taxes (VAT), and customs duties. Businesses can re-export goods without paying taxes but must pay VAT (19 percent) and import duties when goods leave the zone to be used or sold in other regions of Chile. The same exemptions also apply to manufacturers in the Chacalluta and Las Americas Industrial Park in Arica (Arica and Parinacota Region). Mining, fishing and financial services are not eligible for free zone concessions. Management companies and firms established in the free zone are exempt from payment of tariffs, VAT, other charges on imports, first category income tax under the Income Tax Law, and payment of VAT on goods and services for all their operations in the free zone. Foreign-owned firms have the same investment opportunities in these zones as Chilean firms.

15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (USD billion)	2015	240.2	2014	258.1	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (USD billion, stock positions)	2014	35.8	2014	27.6	OECD FDI statistics database http://stats.oecd.org/Index.aspx?QueryId=64220
Host country's FDI in the United States (\$M USD, stock positions)	2014	6,205	2014	730	OECD FDI statistics database http://stats.oecd.org/Index.aspx?QueryId=64220
Total inbound stock of FDI as % host GDP	2015	8.5	2014	8.5	World Bank: http://data.worldbank.org/indicator/BX.KLT.DINV.WD.GD.ZS

* Chilean Central Bank economic statistics are available online in Spanish only:
<http://www.bcentral.cl/estadisticas-economicas/>

Table 3: Sources and Destination of FDI

According to the IMF's Coordinated Direct Investment Survey (CDIS), U.S. FDI stock position in Chile in 2014 amounted to USD 33.2 billion. The United States, the Netherlands, Spain and Canada accounted for 42% of Chile's inward FDI stock. The fifth largest source of FDI is Bermuda, a tax haven, which suggests that the ultimate source of 5.4% of Chile's inward FDI represented by Bermuda might be elsewhere. Chile's outward direct investment stock in 2014 was concentrated in South America, where Brazil, Peru, Colombia and Argentina together represent 38% of total Chilean outward direct investment position.

Direct Investment from/in Counterpart Economy Data, 2014					
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	208,931	100%	Total Outward	90,986	100%
United States	33,174	15.9%	Brazil	13,334	14.7%
Netherlands	23,062	11.0%	Peru	7,238	8.0%
Spain	19,482	9.3%	Colombia	7,184	7.9%
Canada	12,022	5.8%	Argentina	6,875	7.6%
Bermuda	11,269	5.4%	Spain	3,837	4.2%

"0" reflects amounts rounded to +/- USD 500,000.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	149,014	100%	All Countries	112,227	100%	All Countries	36,786	100%
United States	63,894	43%	Luxembourg	44,748	40%	United States	19,224	52%
Luxembourg	44,821	30%	United States	44,670	40%	Japan	3,781	10%
United Kingdom	4,311	3%	Ireland	3,828	3%	Mexico	2,172	6%
Germany	4,199	3%	United Kingdom	2,724	2%	Germany	2,068	6%
Japan	3,996	3%	Germany	2,131	2%	Brazil	2,046	6%

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chiefs of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

Legal system:

civil law system influenced by several West European civil legal systems; judicial review of legislative acts by the Constitutional Tribunal

International organization participation:

APEC, BIS, BRICS, CAN (associate), CD, CELAC, FAO, G-15, G-77, IADB, IAEA, IBRD, ICAO, ICC (national committees), ICRM, IDA, IFAD, IFC, IFRC, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ISO, ITSO, ITU, ITUC (NGOs), LAES, LAIA, Mercosur (associate), MIGA, MINUSTAH, NAM, OAS, OECD (Enhanced Engagement), OPANAL, OPCW, PCA, SICA (observer), UN, UNASUR, UNCTAD, UNESCO, UNFICYP, UNHCR, UNIDO, Union Latina, UNMOGIP, UNTSO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO






Section 6 - Tax

Exchange control

[Ctrl + Click for further information](#)

Treaty and non-treaty withholding tax rates

Chile has exchange of information relationships through 29 DTCs, 1 TIEAs and 1 multilateral mechanism, Convention on Mutual Administrative Assistance in Tax Matters.

Jurisdiction	Type of EOI Arrangement	Date Signed	Date entered into Force	Meets standard	Contains paras 4 and 5	
Argentina	DTC	13 Nov 1976	19 Dec 1985	Yes	No	
Australia	DTC	10 Mar 2010	8 Feb 2013	Yes	Yes	
Austria	DTC	6 Dec 2012	not yet in force	Yes	Yes	
Belgium	DTC	6 Dec 2007	5 May 2010	Yes	No	
Brazil	DTC	3 Apr 2001	24 Jul 2003	Yes	Yes	
Canada	DTC	21 Jan 1998	28 Oct 1999	Yes	No	
Colombia	DTC	19 Apr 2007	22 Dec 2009	Unreviewed	No	
Croatia	DTC	24 Jun 2003	21 Dec 2004	Unreviewed	No	
Denmark	DTC	20 Sep 2002	21 Dec 2004	Yes	No	
Ecuador	DTC	26 Aug 1999	24 Oct 2003	Unreviewed	No	
France	DTC	7 Jun 2004	10 Jul 2006	Yes	No	
Guernsey	TIEA	24 Sep 2012	not yet in force	Yes	Yes	
Ireland	DTC	2 Jun 2005	28 Aug 2008	Yes	No	
Korea, Republic of	DTC	18 Apr 2002	25 Jul 2003	Yes	No	
Malaysia	DTC	3 Sep 2004	25 Aug 2008	No	No	
Mexico	DTC	17 Apr 1998	12 Nov 1999	Yes	No	
New Zealand	DTC	10 Dec 2003	21 Jun 2006	Yes	No	
Norway	DTC	26 Oct 2001	22 Jul 2003	Yes	No	
Paraguay	DTC	30 Aug 2005	26 Aug 2008	Unreviewed	No	
Peru	DTC	8 Jun 2001	13 Nov 2003	Unreviewed	No	
Poland	DTC	10 Mar 2000	1 Jan 2004	Yes	No	
Portugal	DTC	7 Jul 2005	25 Aug 2008	Yes	No	
Russian Federation	DTC	19 Nov 2004	28 Feb 2012	Yes	No	
South Africa	DTC	11 Jul 2012	not yet in force	Yes	No	
Spain	DTC	7 Jul 2003	23 Dec 2003	Yes	No	
Sweden	DTC	4 Jun 2004	30 Dec 2005	Yes	No	
Switzerland	DTC	2 Apr 2008	5 May 2010	No	No	
Thailand	DTC	8 Sep 2006	5 May 2010	Unreviewed	No	
United Kingdom	DTC	12 Jul 2003	21 Dec 2004	Yes	No	
United States	DTC	4 Feb 2010	not yet in force	Yes	Yes	

Methodology and Sources

Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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